

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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)  
FEDERAL TRADE COMMISSION )  
and THE PEOPLE OF THE STATE )  
OF NEW YORK, by LETITIA )  
JAMES, Attorney General of )  
the State of New York, )

Case Number:

1:17-cv-00124-LLS

Plaintiffs, )

vs. )

QUINCY BIOSCIENCE HOLDING )  
COMPANY, INC., a )  
corporation, et al. )

Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF ROSEMARY ROSSO

As 30(b)(6) Designee of

FEDERAL TRADE COMMISSION

(Via videoconference)

January 29, 2021

Reported by: John L. Harmonson, RPR

Job No. 188886

1 R. ROSSO

2 A. The FTC would make a calculation as to  
3 what the injuries to consumers is, which is the  
4 net sales, as I discussed.

5 Q. So it would make the same calculation  
6 with respect to each of the different categories  
7 of relief identified in the prayer for relief in  
8 the FTC's complaint?

9 A. The primary remedy is redress to  
10 consumers. And so the injury calculation is the  
11 calculation of gross sales minus refunds.

12 Q. Okay. You keep categorizing the  
13 primary relief as redress to consumers. But the  
14 FTC's complaint delineates various categories of  
15 relief. And so what I'm trying to understand is  
16 if there is any difference between those  
17 categories of relief identified in the complaint.

18 A. And the reason why I keep going back  
19 is because the way that the prayer for relief is  
20 written and what it says is that the relief is  
21 the relief that the court finds necessary to  
22 redress injuries to consumers, which is the core  
23 equitable remedy. And then it mentions  
24 additional things.

25 So the starting point for any monetary

1 R. ROSSO

2 remedy is the net sales of the Prevagen products  
3 at issue in the litigation.

4 Q. But as you say, the complaint does  
5 mention these other things. And I'm trying to  
6 understand if the FTC's calculation of monetary  
7 relief would change based on the various  
8 different theories of relief that are identified  
9 in the complaint.

10 A. No. The monetary remedies that the  
11 FTC would calculate would be the net sales to  
12 consumers. That would be the injury.

13 Q. So regardless of whether the request  
14 to the trial court is based in disgorgement,  
15 restitution, consumer redress, or any of the  
16 other theories identified in the complaint, the  
17 monetary amount would be the same; is that  
18 correct?

19 A. The monetary remedies that the FTC  
20 would calculate would be the calculation of the  
21 injury to consumers. All of the monetary  
22 remedies would be based on that.

23 To the extent that the defendants have  
24 arguments that there should be offsets, I believe  
25 that in some cases courts have permitted the

1 R. ROSSO

2 A. I am aware of consumers who filed  
3 complaints with the FTC, and the complaints were  
4 turned over to the defendants through discovery.

5 Q. And is it your position -- is it the  
6 FTC's position that every single consumer who  
7 purchased Prevagen was harmed?

8 A. Yes.

9 Q. And your response to Interrogatory  
10 7 specifically mentions economic injury.

11 Is the FTC alleging any other type of  
12 injury in this action against consumers?

13 A. The monetary remedy is economic  
14 injury. So that is the primary remedy being  
15 sought.

16 You know, in dietary supplement cases,  
17 did any consumer forego any treatment or  
18 anything? But the remedies that we are seeking  
19 and the case that we are making is economic  
20 injury.

21 Q. Can you explain what you mean when you  
22 mention "foregoing treatment"?

23 A. Again, I'm talking generally in some  
24 cases, and not this case in particular, but there  
25 are cases where there is a concern that there